

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

HAZELDEN BETTY FORD FOUNDATION and
ELIZABETH B. FORD CHARITABLE TRUST,

Civil No. 20-409 (JRT/TNL)

Plaintiffs,

ORDER

v.

MY WAY BETTY FORD KLINIK GMBH,

Defendant.

Laura L Myers, Luke Leon, Timothy, O'Shea, **FREDRIKSON & BYRON**, 60 South 6th Street, Suite 1500, Minneapolis, MN 55402, Cara S Donels, **FREDRIKSON & BYRON**, 111 East Grand Avenue, Suite 301, Des Moines, IA 50309, for plaintiffs.

Chad A Snyder, Michael Frasier, **RUBRIC LEGAL LLC**, 111 Third Avenue South, Suite 110, Minneapolis, MN 55401, Jiwon Juliana Yhee, Michael Golenson, Riebana Sachs, **MASUDA, FUNAI, EIFERT & MITCHELL, LTD.**, 203 North LaSalle Street, Suite 2500, Chicago, IL 60601, for defendant.

Based upon the Report and Recommendation by United States Magistrate Judge Tony N. Leung dated May 20, 2024 (ECF No. 246), along with all the files and records, and no objections to said Recommendation having been filed,

IT IS HEREBY ORDERED that Hazelden Betty Ford's Motion for Sanctions Against Defendant for Failure to Comply with this Court's Order Dated March 29, 2023, ECF No. 220, is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. The Klinik is prohibited from relying on any declarations from Gawinski,

Marquardt, and Heimfarth at summary judgment or in support of the Klinik's defenses and is prohibited from eliciting testimony from these individuals at trial.

2. Depending on how the case develops at trial, the trial judge in his sound discretion consider the imposition of an adverse inference instruction that the Klinik was ordered to produce Gawinski, Marquardt, and Heimfarth for depositions in Minneapolis, Minnesota; the Klinik failed to comply with that order; and the jurors may, but are not required to, infer that their testimony would have been harmful to the Klinik's defenses.
3. The Klinik is ordered to pay the reasonable costs and attorney fees incurred by Hazelden Betty Ford in connection with the motion for sanctions and such amount shall be determined by the Magistrate Judge.
4. The Court further recommends that all other requested relief be denied.

Date: June 25, 2024
at Minneapolis, Minnesota

s/John R. Tunheim

JOHN R. TUNHEIM
United States District Judge